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COMMISSION ON HUMAN RIGHTS
Forty-sixth session

Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Afghanistan*, Argentina, Australia*, Austria*, Brazil, Byelorussian SSR*, Cameroon*, Canada, Costa Rica*, Denmark*, Germany, Federal Republic of, Finland*, France, Gambia, Greece*, Italy, Luxembourg*, Mexico, Netherlands*, New Zealand*, Nicaragua*, Norway*, Peru, Philippines, Portugal, Senegal, Spain, Sweden, Switzerland*, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Commission on Human Rights,

Recalling article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

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*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling also the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975,

Recalling further General Assembly resolution 39/46 of 10 December 1984, by which the Assembly adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and called upon all Governments to consider signing and ratifying the Convention as a matter of priority,

Bearing in mind its resolution 1989/29 of 6 March 1989 and General Assembly resolution 44/145 of 15 December 1989,

Mindful of the relevance, for the eradication of torture and other cruel, inhuman or degrading treatment or punishment, of the Code of Conduct for Law Enforcement Officials and of the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment,

Welcoming the adoption by the General Assembly, in its resolution 43/173 of 9 December 1988, of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,

Seriously concerned about the alarming number of reported cases of torture and other cruel, inhuman or degrading treatment or punishment taking place in various parts of the world,

Determined to promote full implementation of the prohibition, under international and national law, of the practice of torture and other cruel, inhuman or degrading treatment or punishment,

Recalling its decisions, in resolution 1985/33 of 13 March 1985, to appoint a special rapporteur to examine questions relevant to torture, and its subsequent decisions to continue his mandate,

1. Welcomes the second report of the Committee against Torture (A/44/46);

2. Takes note of the report of the Secretary-General (E/CN.4/1990/15) on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

3. Stresses the importance of strict adherence by States parties to the obligations under the Convention regarding the financing of the Committee against Torture, thus enabling it to carry out in an effective and efficient manner all the functions entrusted to it under the Convention, and appeals to

all States parties not to take any measures which might impair the financing of all the functions of the Committee under the Convention, so as to ensure the long-term viability of the Committee as an essential mechanism for overseeing the effective implementation of the provisions of the Convention;

4. Also stresses the need for the Committee against Torture to give early attention to the development of an effective reporting system on implementation by States parties to the Convention, taking due account of the Secretary-General's draft guidelines on reporting and the activities of the Human Rights Committee, as well as of the other treaty bodies established under the relevant international instruments in the field of human rights;

5. Requests the Secretary-General to ensure the provision of appropriate staff and facilities for the effective performance of the functions of the Committee against Torture;

6. Reiterates its request to all States to become parties to the Convention as a matter or priority;

7. Invites all States ratifying or acceding to the Convention and those States parties which have not yet done so to consider the possibility of making the declaration provided for in articles 21 and 22 of the Convention;

8. Requests the Secretary-General to continue submitting to the General Assembly and to the Commission on Human Rights annual reports on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

9. Decides to consider the report of the Secretary-General at its forty-seventh session under the sub-item of the agenda entitled "Torture and other cruel, inhuman or degrading treatment or punishment".

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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Australia*, Austria*, Belgium, Brazil, Canada, Costa Rica*, Denmark*, Finland*, France, Gambia, Germany, Federal Republic of, Greece*, Italy, Japan, Luxembourg*, the Netherlands*, New Zealand*, Nicaragua*, Norway*, Peru, Senegal, Spain, Sweden, Switzerland*, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

United Nations Voluntary Fund for Victims of Torture

The Commission on Human Rights,

Recalling Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights, which state that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Recalling also General Assembly resolution 36/151 of 16 December 1981, in which the Assembly noted with deep concern that acts of torture took place in various countries, recognized the need to provide assistance to the victims in

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*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

a purely humanitarian spirit and established the United Nations Voluntary Fund for Victims of Torture, and General Assembly resolution 44/145 of 15 December 1989,

Reaffirming the importance of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Bearing in mind its resolution 1989/30 of 6 March 1989,

Convinced that the struggle to eliminate torture includes the provision of assistance in a humanitarian spirit to the victims and their families,

Taking note of the information provided by the Secretary-General on the activities of the United Nations Voluntary Fund for Victims of Torture (A/44/708),

Noting the statement of the Board of Trustees concerning the desirability of receiving contributions from Governments on a regular basis, which, inter alia, would prevent the interruption of programmes that the Fund has been instrumental in bringing into existence,

Noting with satisfaction that international centres for rehabilitation of torture victims have been established and play an important role in providing assistance to victims of torture,

Noting, in this regard, the collaboration of the Fund with the international centres for rehabilitation,

1. Expresses its appreciation to the Board of Trustees of the Fund for the work it has carried out;

2. Expresses its gratitude and appreciation to those Governments, organizations and individuals that have already contributed to the United Nations Voluntary Fund for Victims of Torture;

3. Appeals to all Governments, organizations and individuals in a position to do so to respond favourably to requests for contributions to the Fund, if possible on a regular basis;

4. Renews its request to the Secretary-General to transmit to all Governments the Commission's appeal for contributions to the Fund;

5. Again requests the Secretary-General to make use of all existing possibilities to assist the Board of Trustees of the Fund, inter alia, through the preparation, production and dissemination of information material, in its efforts to make the Fund and its humanitarian work better known;

6. Further requests the Secretary-General to keep the Commission informed of the operations of the Fund on an annual basis.

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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Austria*, Belgium, Canada, Cyprus, Denmark*, France, Gambia, Germany, Federal Republic of, Greece*, Hungary, Ireland*, Italy, Luxembourg*, Madagascar, Netherlands*, New Zealand*, Portugal, Senegal, Spain, Sweden, Switzerland*, Togo*, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland: draft resolution

Question of enforced or involuntary disappearances

The Commission on Human Rights,

Bearing in mind General Assembly resolution 33/173 of 20 December 1978, in which the Assembly requested the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations, and all other United Nations resolutions concerning missing or disappeared persons,

Convinced of the need to continue the implementation of the provisions of General Assembly resolution 33/173 and of the other United Nations resolutions on the question of enforced or involuntary disappearances,

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*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling its resolution 20 (XXXVI) of 29 February 1980, by which it decided to establish a working group consisting of five of its members, to serve as experts in their individual capacity, to examine questions relevant to enforced or involuntary disappearances, and its resolutions 1986/55 of 13 March 1986, 1987/27 of 10 March 1987, 1988/34 of 8 March 1988 and 1989/27 of 6 March 1989,

Recalling its decision 1986/106 of 13 March 1986 by which it invited the Sub-Commission on Prevention of Discrimination and Protection of Minorities to reconsider the question of a declaration against unacknowledged detention of persons,

Recalling General Assembly resolutions 42/142 of 7 December 1987 and 43/159 of 8 December 1988, in which the Assembly welcomed the decision of the Commission on Human Rights to extend for two years, on an experimental basis, the term of the mandate of the Working Group on Enforced or Involuntary Disappearances, while maintaining the principle of annual reporting by the Working Group,

Concerned by the growing number of reports concerning harassment of witnesses of disappearances or relatives of disappeared persons,

Profoundly concerned at the fact that the practice of enforced or involuntary disappearances continues in various regions of the world,

Having considered the report of the Working Group (E/CN.4/1990/13),

1. Expresses its appreciation to the Working Group on Enforced or Involuntary Disappearances for the way in which it has done its work, and thanks the Working Group for submitting to the Commission at its forty-sixth session a report in accordance with its resolution 1989/27;

2. Takes note of the report of the Working Group and thanks it for continuing to improve its methods of work and for recalling the humanitarian spirit underlying its mandate;

3. Decides to extend for two years the term of the mandate of the Working Group as defined in Commission resolution 20 (XXXVI) so as to enable the Working Group to take into consideration all the information that may be transmitted to it concerning the cases brought to its attention, while maintaining the principle of annual reporting by the Working Group;

4. Requests the Working Group to report on its work to the Commission at its forty-seventh session and reminds the Working Group of the obligation to discharge its mandate in a discreet and conscientious manner;

5. Requests the Working Group, in its efforts to help eliminate the practice of enforced or involuntary disappearances, to present to the Commission all appropriate information it deems necessary and all concrete suggestions and recommendations regarding the fulfilment of its task;

6. Reminds the Working Group of the need to observe, in its humanitarian task, United Nations standards and practices regarding the receipt of communications, their consideration, their evaluation, the transmittal to Governments of all communications received and the consideration of Government replies;

7. Expresses its appreciation to the Working Group on Detention of the Sub-Commission for the progress made in 1989 in preparing the first draft of a declaration on enforced or involuntary disappearances and invites the Sub-Commission to finalize the draft as soon as possible with a view to submitting it to the Commission;

8. Notes with concern that, as the Working Group points out in its report, some Governments have never provided substantive replies concerning disappearances alleged to have occurred in their country;

9. Reminds Governments of the need to ensure that their competent authorities conduct prompt and impartial inquiries when there is reason to believe that an enforced or involuntary disappearance has occurred in a territory under their jurisdiction;

10. Urges the Governments concerned, particularly those which have not yet responded to communications transmitted to them by the Working Group, to co-operate with and assist the Working Group so that it may carry out its mandate effectively, and in particular to answer expeditiously requests for information addressed to them by the Working Group;

11. Also urges the Governments concerned to intensify their co-operation with the Working Group in regard to any measure taken in pursuance of recommendations addressed to them by the Group;

12. Once again urges the Governments concerned to take steps to protect the families of disappeared persons against any intimidation or ill-treatment to which they might be subject;

13. Encourages the Governments concerned to give serious consideration to inviting the Working Group to visit their country, so as to enable the Group to fulfil its mandate even more effectively;

14. Urges Governments to take steps to ensure that, when a state of emergency is introduced, the protection of human rights is guaranteed, particularly as regards the prevention of enforced or involuntary disappearances;

15. Expresses its profound thanks to the Governments which have co-operated with the Working Group and responded to its requests for information;

16. Also expresses its profound thanks to the Governments which have invited the Working Group, and asks them to give all necessary attention to its recommendations;

17. Also requests the Secretary-General to ensure that the Working Group receives all necessary assistance, in particular the staff and resources it requires to perform its functions, especially in carrying out missions or holding sessions in countries which would be prepared to receive it;

18. Decides to consider this question at its forty-seventh session under the sub-item of the agenda entitled "Question of enforced or involuntary disappearances".

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Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Austria*, Costa Rica*, Germany, Federal Republic of, Italy, Luxembourg*, Nicaragua*, Philippines, Portugal, Togo* and United Kingdom of Great Britain and Northern Ireland: draft resolution

Staff Members of the United Nations and the specialized agencies in detention

The Commission on Human Rights,

Recalling General Assembly resolutions 42/219 of 21 December 1987, 43/225 of 21 December 1988 and 44/186 of 19 December 1989, in which the Assembly deplored the increase in the number of cases where the functioning, safety and well-being of officials had been adversely affected, including cases of detention in Member States and abduction by armed groups and individuals, and the increasing number of cases in which the lives and well-being of officials had been placed in jeopardy during the exercise of their official functions,

*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling its resolution 1989/28 of 6 March 1989, in which it requested the Secretary-General to continue his efforts to ensure that the human rights and privileges and immunities of the United Nations staff members and experts and their families were fully respected, and to present to the forty-sixth session of the Commission an updated version of the report submitted to it at its forty-fifth session on the situation of United Nations staff members, experts and their families detained, imprisoned, missing or held in a country against their will,

Taking note with appreciation of the preliminary report on the protection of human rights of United Nations staff members, experts and their families (E/CN.4/Sub.2/1989/28), presented to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its forty-first session, by one of its members,

Welcoming the Sub-Commission's decision to invite one of its members to continue her study so as to submit to it, at its forty-second session, an updated version of the aforesaid report,

Considering that at a time when the United Nations is being called upon to undertake greater responsibilities in various parts of the world, it is imperative that its staff members are able to perform their duties with the assurances that their human rights and privileges and immunities will be fully respected, in accordance with the relevant provisions of the Charter of the United Nations and other international instruments,

Gravely concerned that a significant number of United Nations staff members, experts and their families continue to be held captive or are otherwise unaccounted for,

Noting the need for updated and complete information on the situation of United Nations staff members, experts and their families detained, imprisoned, missing or held in a country against their will,

Preoccupied by the inordinate delays which different organizations of the United Nations system face when trying to exercise fully the right of functional protection of their staff members,

Greatly appreciating the efforts of the Secretary-General to promote a satisfactory resolution of all cases of this kind, and noting that these efforts have already produced concrete results concerning the security of United Nations staff members, experts and their families,

1. Appeals again to Member States to respect and to ensure respect for the rights of staff members and others acting under the authority of the United Nations, and their families;

2. Requests the Secretary-General to continue his efforts to ensure that the human rights and privileges and immunities of the United Nations staff members, experts and their families are fully respected;

3. Urges Member States, in accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly in resolution 43/173 of 9 December 1988, to provide adequate and prompt information concerning the arrest or detention of United Nations staff members, experts and their families, and to grant the representative of the competent international organization access to them without delay;

4. Urges Member States to allow medical teams to investigate cases in which the health of staff members and experts and their families who are being detained is reported to have suffered and to permit the necessary medical treatment to be made available;

5. Calls upon Member States to allow the representative of the competent international organization to attend any hearing concerning United Nations staff members, experts and their families;

6. Requests the Secretary-General to submit to the Commission at its forty-seventh session an updated version of the report presented to the forty-fifth session on the situation of United Nations staff members, experts and their families detained, imprisoned, missing or held in a country against their will, including those cases which have been successfully settled since the presentation of the last report, as well as on the implementation of the measures referred to in paragraphs 3 and 4 of the present resolution.

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Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Austria*, Belgium, Bulgaria, Canada, France, Gambia, Germany, Federal Republic of, Luxembourg*, Spain, United Kingdom of Great Britain and Northern Ireland and Union of Soviet Socialist Republics: draft resolution

Right to freedom of opinion and expression

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights, which affirms the right to freedom of opinion and expression,

Mindful of the International Covenant on Civil and Political Rights, which reaffirms, in article 19, the right of everyone to hold opinions without interference, as well as the right to freedom of expression, and states that the exercise of these rights carries with it special duties and responsibilities and may therefore be subject to certain restrictions, but

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*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

that these shall only be such as are provided by law and are necessary for respect of the rights or reputations of others, or for the protection of national security or public order (ordre public), or of public health and morals,

Mindful also that the International Covenant on Civil and Political Rights states that any propaganda for war or any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law,

Taking note of Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1983/32 of 6 September 1983,

Recalling its resolution 1984/26 of 12 March 1984, 1985/17 of 11 March 1985, 1986/46 of 12 March 1986, 1987/32 of 10 March 1987, 1988/37 and 1988/39 of 8 March 1988, 1989/31 of 6 March 1989 and 1989/56 of 7 March 1989,

Having examined the working paper on the right to freedom of opinion and expression (E/CN.4/Sub.2/1989/26), prepared by Mr. Danilo Türk in accordance with Sub-Commission decision 1988/110 of 1 September 1988,

Noting the reference in the working paper prepared by Mr. Türk to the intrinsic link between the right to freedom of opinion and expression and those rights contained in articles 18, 21, 22 and 25 of the International Covenant on Civil and Political Rights, namely the rights to freedom of thought, conscience and religion, of peaceful assembly and freedom of association and to take part in the conduct of public affairs,

Noting also the importance and relevance to the protection of the right to freedom of opinion and expression of work being undertaken on the drafting of a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect human rights, and welcoming the progress achieved to that end at the current session of the Commission's working group on the subject,

Considering that the effective promotion of the human rights of persons who exercise the right to freedom of opinion and expression is of fundamental importance to the safeguarding of human dignity,

1. Expresses its concern at the extensive occurrence in many parts of the world of detention of, or discrimination against, persons who exercise the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

2. Also expresses its concern at the extensive occurrence in many parts of the world of detention of, or discrimination against, persons who exercise the intrinsically linked rights to freedom of thought, conscience and religion, of peaceful assembly and freedom of association and to take part in the conduct of public affairs as affirmed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

3. Further expresses its concern at the extensive occurrence in many parts of the world of detention of, or discrimination against, persons who seek to promote and defend these rights and freedoms;

4. Welcomes the release of persons detained for exercising these rights and freedoms, and encouraging further progress in this regard in all parts of the world;

5. Appeals to all States to ensure respect and support for the rights of all persons who exercise the right to freedom of opinion and expression and the rights to freedom of thought, conscience and religion, of peaceful assembly and freedom of association and to take part in the conduct of public affairs; or who seek to promote and defend these rights and freedoms and, where any persons have been detained solely for exercising these rights as laid down in the International Covenant on Civil and Political Rights, to release them immediately;

6. Appeals also to all States to ensure that persons seeking to exercise these rights and freedoms are not discriminated against, particularly in such areas as employment, housing and social services, or harassed;

7. Endorses Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1989/14 of 31 August 1989 in which the Sub-Commission requested Mr. Louis Joinet and Mr. Danilo Türk to prepare a study on the right to freedom of opinion and expression, the current problems of its realization and on measures necessary for its strengthening and promotion;

8. Requests the Secretary-General to provide the two Special Rapporteurs with all necessary assistance;

9. Decides to review this matter at its forty-seventh session on the basis, inter alia, of the preliminary report of the Special Rapporteurs to the forty-second session of the Sub-Commission and any decisions adopted by the Sub-Commission in this regard;

10. Recommends the following draft resolution to the Economic and Social Council for adoption:

The Economic and Social Council,

Recalling the Commission on Human Rights resolutions 1984/26 of 12 March 1984, 1985/17 of 11 March 1985, 1986/46 of 12 March 1986, 1987/32 of 10 March 1987, 1988/37 and 1988/39 of 8 March 1988, 1989/31 of 6 March 1989 and 1989/56 of 7 March 1989,

Recalling also the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities 1988/110 of 1 September 1989 and its resolution 1989/15 of 31 August 1989,

Taking into account the working paper on the right to freedom of opinion and expression prepared by Mr. Danilo Türk,

1. Endorses the decision of the Sub-Commission to entrust Mr. Louis Joinet and Mr. Danilo Türk, members of the Sub-Commission, with the preparation of a study on the right to freedom of opinion and expression, the current problems of its realization and on measures necessary for its strengthening and promotion;

2. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteurs to carry out the said study;

3. Requests the Special Rapporteurs to submit a preliminary report on their study to the Sub-Commission for consideration at its forty-second session and to the Commission on Human Rights for comments at its forty-seventh session.

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Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Austria*, Belgium, Botswana, Bulgaria, Canada, Colombia, Cyprus, France, Gambia, Germany, Federal Republic of, Hungary, Italy, Luxembourg*, the Netherlands*, Nicaragua*, Philippines, Portugal and Togo*: draft resolution

Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

The Commission on Human Rights,

Guided by the principles embodied in articles 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 14 and 26 of the International Covenant on Civil and Political Rights,

Recalling the adoption by the Economic and Social Council in its resolution 1989/60 of 24 May 1989 of the Procedures for Effective Implementation of the Basic Principles on the Independence of the Judiciary,

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*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling also its own resolution 1989/32 of 6 March 1989 in which it requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider effective means to monitor the implementation of the Basic Principles on the Independence of the Judiciary and the protection of practising lawyers,

Convinced that an independent and impartial judiciary is an essential prerequisite for ensuring that human rights are protected and that there shall be no discrimination in the administration of justice,

Aware that adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession,

Disturbed at the continued harassment and persecution of judges and lawyers in many countries,

1. Calls on Governments to respect the independence of the judiciary and ensure the protection of practising lawyers, prosecutors and judges against undue restrictions and pressures in the exercise of their functions;

2. Welcomes the close co-operation between the Centre for Human Rights and the Centre for Social Development and Humanitarian Affairs on matters relating to human rights in the administration of justice, in accordance with its own resolutions 1987/33 of 10 March 1987, 1988/33 of 8 March 1988 and 1989/24 of 6 March 1989;

3. Endorses Sub-Commission resolution 1989/22 of 31 August 1989 in which the Sub-Commission invited Mr. Louis Joinet to prepare a working paper on means in the area of monitoring by which the Sub-Commission could assist in ensuring respect for the independence of the judiciary and the protection of practising lawyers;

4. Requests the Sub-Commission to study the working paper with a view to recommending to the Commission any initiatives which could be taken to effectuate the implementation of the Basic Principles on the Independence of the Judiciary and the protection of practising lawyers;

5. Takes note with satisfaction that the Committee on Crime Prevention and Control has taken into account the draft declaration prepared by the Special Rapporteur on the independence and impartiality of the judiciary,

jurors and assessors and the independence of lawyers in completing its elaboration of the draft basic principles on the role of lawyers, as requested by the Commission in its resolution 1989/32;

6. Recommends that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990 consider, as a matter of priority, the draft basic principles on the role of lawyers elaborated by the Committee on Crime Prevention and Control, with a view to their adoption;

7. Decides to consider these questions at its forty-seventh session.

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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED
TO ANY FORM OF DETENTION OR IMPRISONMENT

Australia*, Austria*, Belgium, Canada, Colombia, Cyprus, Denmark*, Finland*, Gambia, Greece*, Ireland*, Italy, Luxembourg*, Netherlands*, New Zealand*, Nicaragua*, Norway*, Peru, Philippines, Portugal, Senegal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, Zaire: draft resolution

Torture and other cruel, inhuman or degrading treatment or punishment: report of the Special Rapporteur

The Commission on Human Rights,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Recalling the Declaration on the Protection of All Persons from Being Subjected to Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly by its resolution 3452 (XXX) of 9 December 1975,

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*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Noting with pleasure that the number of States which have become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is steadily increasing,

Taking note with satisfaction of the establishment of the Committee which is provided for in the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and which began its work on 13 November 1989,

Seriously concerned, however, about the persistence of an alarming number of reported cases of torture and other cruel, inhuman or degrading treatment or punishment taking place in various parts of the world,

Recalling its resolution 1985/33 of 13 March 1985, by which it decided to appoint for one year a special rapporteur to examine questions relevant to torture, and its resolutions 1986/50 of 13 March 1986 and 1987/29 of 10 March 1987, by which that mandate was extended annually,

Recalling also its resolution 1988/32 of 8 March 1988, by which it decided to continue the mandate of the Special Rapporteur for two years, while maintaining the annual reporting cycle,

Noting that, on 18 April 1989, the Rapporteur had an exchange of views with the Committee against Torture established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recognizing that torture constitutes a criminal obliteration of the human personality which can never be justified under any circumstances, by any ideology or by any overriding interest and convinced that a society that tolerates torture can never claim to respect human rights,

Determined to promote the full implementation of the prohibition under international and national law of the practice of torture and other cruel, inhuman or degrading treatment or punishment,

Convinced that efforts to eradicate torture should first and foremost be concentrated on prevention,

Noting in this regard the importance of the provision of advisory services and technical assistance as forms of practical assistance to interested States with a view to enabling them to develop the necessary infrastructure to meet international human rights standards,

Recalling the Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the

protection of prisoners and detainees against torture or punishment adopted by the General Assembly in its resolution 37/194 of 18 December 1982 and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power adopted by the General Assembly in its resolution 40/34 of 29 November 1985,

Recalling also the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment approved by the General Assembly in its resolution 43/173 of 9 December 1988,

Recalling further the conclusions and recommendations of the Special Rapporteur underlined in its resolutions 1987/29, 1988/32 and 1989/33 of 6 March 1989,

1. Commends the Special Rapporteur on his report (E/CN.4/1990/17 and Add.1);

2. Underlines once again the previous conclusions and recommendations of the Special Rapporteur concerning the importance of instituting a system of periodic visits by independent experts to places of detention;

3. Welcomes the intention of the Special Rapporteur to keep himself informed of the work of and, as necessary, to seek contacts with the Committee established under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, for it believes that the work of this Committee will make it possible to gain useful experience which may make it easier to determine whether such a system of periodic visits can also be envisaged in other regions or on a world-wide scale;

4. Underlines again the conclusions of the Special Rapporteur stressing the importance of limiting, and eventually declaring illegal, incommunicado detention under national law, since the great majority of allegations refer to torture practised during incommunicado detention;

5. Underlines also the recommendation of the Special Rapporteur that legal provisions should be adopted prescribing that a person shall be given prompt access to a legal counsel after he has been arrested and making it obligatory promptly to inform the relatives of an arrested person of both the arrest and the place where the detainee is being held;

6. Underlines further the recommendation of the Special Rapporteur aiming at the organization of proper medical inspections for arrested or detained persons as promptly as possible after their admission to the place of detention and after every transfer to another place of detention;

7. Takes note of the recommendations of the Special Rapporteur that interrogation of detainees should take place only at official interrogation centres and that each interrogation should be recorded and start with the identification of all the persons present;

8. Underlines the repeated recommendations of the Special Rapporteur pertaining to the establishment at the national level of an independent authority able to receive complaints by individuals about torture or other severe maltreatment;

9. Endorses the recommendation of the Special Rapporteur that, whenever a person is found to be responsible for acts of torture or severe maltreatment, he should be brought to trial and, if found guilty, severely punished;

10. Recalls that it is desirable for Governments and medical associations to take strong action against all persons belonging to the medical profession who have in that capacity had a function in the practice of torture;

11. Calls upon all States to sign and to accede to or ratify as soon as possible the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and requests the Special Rapporteur to continue to promote universal accession to that Convention and to encourage all States to fulfil its provisions strictly;

12. Emphasizes the importance of training programmes for law and security personnel and draws the attention of interested Governments to the possibilities offered in this connection by the United Nations programme of advisory services in the field of human rights;

13. Decides to continue the mandate of the Special Rapporteur for another two years, while maintaining the annual reporting cycle in order to enable him to submit further conclusions and recommendations to the Commission;

14. Decides that the Special Rapporteur, in carrying out his mandate, shall continue to seek and receive credible and reliable information from Governments, as well as from specialized agencies, intergovernmental organizations and non-governmental organizations;

15. Considers it desirable that the Special Rapporteur should continue to have periodic consultations with the Committee against Torture;

16. Invites the Special Rapporteur, in carrying out his mandate, to bear in mind the need to be able to respond effectively to credible and reliable information that comes before him and to carry out his work with discretion;

17. Appeals to all Governments to co-operate with and assist the Special Rapporteur in the performance of his tasks and to furnish all information requested;

18. Encourages Governments to give serious consideration to inviting the Special Rapporteur to visit their country so as to enable him to fulfil his mandate even more effectively;

19. Expresses its thanks to the Governments which have invited the Special Rapporteur and requests them to give due consideration to his recommendations;

20. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur in order to enable him to submit his report to the Commission at its forty-seventh session.

UNITED
NATIONS

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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED
TO ANY FORM OF DETENTION OR IMPRISONMENT

Belgium, Colombia, France, Germany, Federal Republic of, Italy, Japan, Switzerland*, Togo*, Union of Soviet Socialist Republics, and United Kingdom of Great Britain and Northern Ireland: draft resolution

Hostage-taking

The Commission on Human Rights,

Recalling its resolution 27 (XXXVII) of 11 March 1981, in which it affirmed that the taking of hostages constituted a grave violation of human rights, exposing the hostages to privation, hardship, anguish and danger to life and health,

Recalling its resolutions 1986/49 of 12 March 1986, 1987/28 of 10 March 1987, 1988/38 of 8 March 1988 and 1989/26 of 6 March 1989, in which it condemned the taking of any person hostage,

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*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Bearing in mind, among other things, Security Council resolutions 579 (1985) of 18 December 1985, 618 (1988) of 29 July 1988 and 638 (1989) of 31 July 1989 on hostage-taking, as well as the statement made by the President of the Security Council on 28 January 1987 (S/18641), again condemning all cases of hostage-taking,

Bearing in mind also the international instruments relating to human rights and other relevant international instruments,

Considering that everyone has the right to life, liberty and security, and that hostage-taking is a serious violation of fundamental rights and of the dignity of the human being,

Considering that arbitrary detention of persons is an unquestionable violation of human rights,

Alarmed by the number of cases of hostage-taking throughout the world, some of which have been going on for a long time, and by the odious practice they constitute,

Expressing its distress at these unacceptable displays of violence towards innocent victims and at the anxiety and suffering of the families concerned,

1. Strongly condemns the taking of any person hostage, whoever is responsible and whatever the circumstances, whether or not the hostage is chosen at random and whatever his nationality;

2. Censures the actions of all persons responsible for taking hostages, whatever their motives, and demands that they should immediately release those they are holding;

3. Appeals for the humanitarian action of the International Committee of the Red Cross and its delegates to be respected in all circumstances;

4. Calls upon States to take any measures necessary to prevent and punish the taking of hostages and to put an immediate end to cases of abduction and unlawful restraint on their territory;

5. Requests the Secretary-General, whenever so requested by a State, to employ all means at his disposal in order to secure the immediate release of persons held hostage;

6. Decides to remain seized of this question at its forty-seventh session.

UNITED NATIONS

E

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COMMISSION ON HUMAN RIGHTS
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Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Australia*, Belgium, Canada, Denmark*, Federal Republic of Germany, France, Greece*, Ireland*, Italy, Japan, Luxembourg*, the Netherlands*, Norway*, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation in China

The Commission on Human Rights,

Recalling Sub-Commission resolution 1989/5 of 31 August 1989,

Concerned at allegations of violations of human rights in China,

1. Notes the summary records of the debates on this question during the forty-first session of the Sub-Commission;

2. Further notes the Secretary-General's note (E/CN.4/1990/52) on the subject;

3. Endorses the appeal of the Sub-Commission for clemency towards persons deprived of their liberty as a result of the events in June 1989;

4. Welcomes, as steps in the right direction, the decisions of the Government of China in January 1990 to lift martial law in Beijing and to release 573 persons who had been detained;

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*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

5. Urges the Government of China to continue to take measures along the same lines to ensure full observance of human rights, as affirmed in the Universal Declaration of Human Rights;

6. Requests the Secretary-General to transmit to the forty-seventh session of the Commission on Human Rights additional information, including that provided by the Government of China.

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UNITED
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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Agenda item 10 (a)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Administrative and programme budget implications of the draft resolution contained in document E/CN.4/1990/L.45

Statement submitted by the Secretary-General in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council

A. Requests contained in the draft resolution

1. By operative paragraph 13 of draft resolution E/CN.4/1990/L.45, the Commission on Human Rights would decide to extend for two years the mandate of the Special Rapporteur.

B. Relationship of proposed request programme of work

2. The activities referred to above fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 1, "Implementation of international standards, instruments and procedures", the objectives of and the strategy for which are described in paragraphs 6.20, 6.22 and 6.23 of the medium-term plan for the period 1984-1989 as extended until 1991 (A/44/6).

3. The following programme element of Section 23 (Human Rights) of the programme budget for the biennium 1990-1991 is directly affected by the activities referred to in the draft resolution:

Programme element 1.3 - Servicing special procedures including assistance to ad hoc investigatory or fact-finding bodies

Output: (vii) Substantive servicing of 20 separate exercises of a fact-finding nature or other procedure dealing with alleged violations of human rights decided upon by policy-making organs during the biennium, including gathering and analysis of materials, consultations and field missions.

Output: (viii) Preparation of 20 reports to be submitted to the Commission on Human Rights and the General Assembly on fact-finding exercises mentioned in previous output.

C. Activities by which the proposed request would be implemented

4. It is envisaged that in order to carry out his mandate the Special Rapporteur would travel to Geneva in April/May 1990 and April/May 1991 for a period of five working days to hold consultations at the Centre for Human Rights and to organize and plan his work in relation to his mandate. The Special Rapporteur would travel to Geneva for a period of five working days in September/October 1990 and September/October 1991 in order to prepare his reports to the Commission on Human Rights at its forty-seventh and forty-eighth sessions, and in December 1990 or January 1991 and in December 1991 or January 1992 in order to finalize them. In February/March 1991 and in February/March 1992 he would travel to Geneva for a period of five working days to present his reports to the Commission on Human Rights. In order to respond to invitations from Governments as recommended in paragraphs 14, 15, 16, 17, 18 and 19 of the draft resolution, the Special Rapporteur, accompanied by up to three staff members, would undertake a maximum of six field missions during the period 1990 to 1991.

5. Twelve work-months of temporary assistance at the P-3 level and 12 work-months at the GS level would be required to assist the Special Rapporteur during his two-year mandate in the gathering of information, compilation and analysis of materials as well as in the preparation for and conduct of missions, and in the preparation of his reports to the Commission on Human Rights.

D. Modifications required in the programme of work

6. No modification would be required in the programme of work for 1990-1991, since the activity appears under programme element 1.3.

E. Additional requirements at full cost

7. The estimated cost of the above programme of work is itemized as follows:

	1990	1991	1992
		(US dollars)	
Two round trips to Geneva of the Special Rapporteur for consultations at the Centre for Human Rights April/May 1990 and April/May 1991 (5 working days each)			
Travel and subsistence	1 700	1 700	-
Six field missions of the Special Rapporteur, accompanied by up to three staff members from the Centre for Human Rights (calculated on a notional basis for a period of 5 working days each)			
Travel costs of Special Rapporteur	7 500	7 500	-
Travel costs of 3 staff members	8 000	8 000	-
General operating expenses (local transport, communications and rental of office space)	2 000	2 000	-
Two round trips to Geneva of the Special Rapporteur to prepare his reports to the Commission on Human Rights, September/October 1990 and September/October 1991 (5 working days each)			
Travel costs of Special Rapporteur	1 700	1 700	-
Two round trips to Geneva of the Special Rapporteur to finalize his reports to the Commission on Human Rights at its forty-seventh and forty-eighth sessions, December 1990 or January 1991 and December 1991 or January 1992 (5 working days each)			
Travel and subsistence	1 700	1 700	-

	1990	1991 (US dollars)	1992
Two round trips to Geneva of the Special Rapporteur to the Commission on Human Rights February/March 1991 and February/March 1992 (5 working days each)			
Travel and subsistence		1 700	1 700
General temporary assistance			
12 work-months at P-3 level 1/	22 500	22 500	9 000
12 work-months at GS level 1/	17 500	17 500	7 000
Total	62 600	64 300	17 700

8. The relevant costs to be financed under Section 23 (Human Rights) are estimated at $62,600 for 1990, $64,300 for 1991 and $17,700 for 1992.

9. Should the services of an interpreter be required during the field missions, salary, travel and subsistence costs are estimated at $5,000 for each mission to be financed under Section 29 B (Conference Services Division, Geneva).

10. This draft resolution is considered to be within the scope of perennial activities and resources therefore would be provided from the existing provision for the Economic and Social Council mandates under Section 23 (Human Rights), thus making it unnecessary to request any additional appropriation or to have recourse to the contingency fund.

1/ 5 w/m in 1990; 5 w/m in 1991 and 2 w/m in 1992.

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Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Administrative and programme budget implications of the draft resolution contained in document E/CN.4/1990/L.16

Statement submitted by the Secretary-General in accordance with rule 28 of the rules of procedure of the functional commission of the Economic and Social Council

Assistance to Haiti in the field of human rights

A. Requests contained in the draft resolution

1. By operative paragraphs 9 and 12 of draft resolution E/CN.4/1990/L.16, the Commission on Human Rights would request the Chairman of the Commission on Human Rights to appoint a representative of the Commission to examine developments in the human rights situation in Haiti and to help devise measures capable of making the necessary improvements, and would further request the representative to report to it at its forty-seventh session on developments in the human rights situation in Haiti.

B. Relationship of request to proposed programme of work

2. The activities referred to above fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 1, "Implementation of international standards, instruments and procedures", the objectives of and strategy for which are described in paragraphs 6.20, 6.22 and 6.23 of the medium-term plan for the period 1984-1989 as extended through 1991.

3. The following programme element of Section 23 (Human Rights) of the programme budget for the biennium 1990-1991 is directly affected by the activities referred to in the draft resolution:

Programme element 1.3 - Servicing special procedures including assistance to ad hoc investigatory or fact-finding bodies

Output: (vii) Substantive servicing of 20 separate exercises of a fact-finding nature or other procedure dealing with alleged violations of human rights decided upon by policy-making organs during the biennium, including gathering and analysis of materials, consultations and field missions.

Output: (viii) Preparation of 20 reports to be submitted to the Commission on Human Rights and the General Assembly on fact-finding exercises mentioned in previous output.

C. Activities by which the proposed requests would be implemented

4. It is envisaged that the Commission's representative would undertake a trip to Geneva for a period of five working days in May or June 1990 for the purpose of holding consultations at the Centre for Human Rights and organize and plan his work in relation to his mandate. In July or August 1990 the Commission's representative, accompanied by one staff member from the Centre for Human Rights, would carry out a field mission to Haiti for a period of five working days to collect information on the spot. In November or December 1990 the Commission's representative, would travel to Geneva for a period of five working days to prepare his report. In February or March 1991 the Commission's representative would again travel to Geneva for a period of five working days to present his report to the Commission on Human Rights at its forty-seventh session. Six work-months of temporary assistance at the P-3 level and six work-months at the GS level would be required to assist the Commission's representative in the gathering of information, compilation and analysis of material and assistance in the preparation for and conduct of missions, as well as in the preparation of his reports to the Commission on Human Rights.

D. Modifications required in the proposed programme of work for 1990-1991

5. No modifications are required in the programme of work for 1990-1991 since the activity envisaged appears under programme element 1.3.

E. Additional requirements at full cost

6. The estimated full cost of the above programme of work is itemized as follows:

	1990	1991
	(US dollars)	
One round trip to Geneva of the Commission's representative for consultations at the Centre for Human Rights, May/June 1990 (5 working days)		
Travel and subsistence	2 500	-

	1990	1991
	(US dollars)	
One field mission to Haiti of the representative, accompanied by one staff member from the Centre for Human Rights, July/August 1990 (5 working days)		
Travel and subsistence of the representative	4 000	-
Travel and subsistence of one staff member from the Centre for Human Rights	3 700	-
General operating expenses: local transport, communications and rental of office facilities	1 000	-
One round trip to Geneva of the representative to finalize his report, November/December 1990 (5 working days)		
Travel and subsistence	2 500	-
One round trip to Geneva of the representative to present his report to the Commission on Human Rights at its forty-seventh session, February/March 1991 (5 working days)		
Travel and subsistence	-	2 500
General temporary assistance		
6 work-months at P-3 level 1/	22 500	4 500
6 work-months at GS level 1/	17 500	3 500
Total	53 700	10 500

7. The relevant costs to be financed under Section 23 (Human Rights) are estimated at $53,700 for 1990 and $10,500 for 1991.

8. This draft resolution is considered to be within the scope of perennial activities and resources therefore would be provided from the existing provision for the Economic and Social Council mandates under Section 23, thus making it unnecessary to have recourse to the contingency fund.

Note

1/ 5 w/m. in 1990, 1 w/m. in 1991.

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E

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COMMISSION ON HUMAN RIGHTS
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Agenda item 8

THE RIGHT TO DEVELOPMENT

Administrative and programme budget implications of the draft resolution contained in document E/CN.4/1990/L.24

Statement submitted by the Secretary-General in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council

A. Request contained in the draft resolution

1. By operative paragraph 4 of draft resolution E/CN.4/1990/L.24, the Commission would request the Secretary-General to publish the report of the Global Consultation (E/CN.4/1990/9) as part of the World Public Information Campaign for Human Rights and give it the widest circulation.

B. Relationship of request to proposed programme of work

2. The activities proposed in the resolution would fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 3, "Advisory Services, technical assistance in the field of human rights and publications", the strategy for which is described in paragraph 6.29 of the medium-term plan for the period 1984-1989 as extended until 1991.

3. The following programme element of Section 23 (Human rights) of the programme budget for the biennium 1990-1991 is directly affected by the activities referred to in the resolution:

Programme element 3.1 - Documentation and Publications

Output: (xi) Four issues of proceedings of workshops and training courses.

C. Activities by which the proposed request would be implemented

4. The report of the Global Consultation on the Right to Development as a Human Right would be published as a United Nations document and given the widest possible circulation.

D. Modifications required in the proposed programme of work

5. No modification in the programme of work for 1990-1991 would be required since the activity appears under programme element 3.1 as shown in paragraph 3.

E. Additional requirements

6. This activity has been provided for in the 1990-1991 programme budget.

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(119)

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Agenda item ... (19)

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES AT ITS FORTY-FIRST SESSION

Argentina, Brazil, Colombia, Mexico, Peru and Venezuela: Amendment to draft resolution II recommended by the Sub-Commission for adoption by the Commission

In preambular paragraph 6, replace the words "the right to live in a sound and healthy environment and consequently the right to health" by the words "and the right to the highest attainable standard of health, including in its environmental aspects".

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COMMISSION ON HUMAN RIGHTS
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Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Australia*, Canada, Denmark*, Ireland*, Luxembourg*, the Netherlands*, Norway* and Sweden: draft resolution

Situation of human rights in Guatemala

The Commission on Human Rights,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Reiterating that the Governments of all Member States have an obligation to promote and protect human rights and fundmental freedoms,

Recalling past resolutions on the situation of human rights in Guatemala,

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*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Having considered the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1990/13) the report of the Special Rapporteur on summary or arbitrary executions (E/CN.4/1990/22), the report of the Special Rapporteur on torture (E/CN.4/1990/17) and the report of the Expert, Mr. Hector Gros Espiell (E/CN.4/1990/45),

1. Expresses its appreciation to the Government of Guatemala for its collaboration with the Commission on Human Rights, as well as the facilities and co-operation afforded to the Expert;

2. Recognizes that the Government of Guatemala has reiterated its commitment to guarantee and promote the protection of human rights and fundamental freedoms;

3. Expresses its serious concern at the continuing reports of serious violations of human rights in Guatemala;

4. Decides to request its Chairman to appoint, after consultations with the Bureau, a representative of the Commission with the mandate to study the situation of human rights in Guatemala;

5. Authorizes the representative to seek relevant information from the Government of Guatemala, specialized agencies and intergovernmental and non-governmental organizations;

6. Requests the representative to present a preliminary report to the General Assembly at its forty-fifth session, and a report to the Commission at its forty-seventh session;

7. Urges the Government of Guatemala to extend its co-operation to the Commission and its representative;

8. Requests the Secretary-General to provide all necessary assistance to the representative to enable him or her to carry out his or her mandate in the best possible conditions;

9. Decides to continue its consideration of the human rights situation in Guatemala at its forty-seventh session under the agenda item entitled "Questions of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

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NATIONS

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COMMISSION ON HUMAN RIGHTS
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Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Australia*, Canada, Denmark*, Ireland*, Luxembourg*, the Netherlands*, Norway*, Spain and Sweden: draft resolution

Situation of human rights in Guatemala

The Commission on Human Rights,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Reiterating that the Governments of all Member States have an obligation to promote and protect human rights and fundmental freedoms,

Recalling past resolutions on the situation of human rights in Guatemala,

---

*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Having considered the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1990/13) the report of the Special Rapporteur on summary or arbitrary executions (E/CN.4/1990/22), the report of the Special Rapporteur on torture (E/CN.4/1990/17) and the report of the Expert, Mr. Hector Gros Espiell (E/CN.4/1990/45),

1. Expresses its appreciation to the Government of Guatemala for its collaboration with the Commission on Human Rights, as well as the facilities and co-operation afforded to the Expert;

2. Recognizes that the Government of Guatemala has reiterated its commitment to guarantee and promote the protection of human rights and fundamental freedoms;

3. Expresses its serious concern at the continuing reports of serious violations of human rights in Guatemala;

4. Decides to request its Chairman to appoint, after consultations with the Bureau, a representative of the Commission with the mandate to study the situation of human rights in Guatemala;

5. Authorizes the representative to seek relevant information from the Government of Guatemala, specialized agencies and intergovernmental and non-governmental organizations;

6. Requests the representative to present a preliminary report to the General Assembly at its forty-fifth session, and a report to the Commission at its forty-seventh session;

7. Urges the Government of Guatemala to extend its co-operation to the Commission and its representative;

8. Requests the Secretary-General to provide all necessary assistance to the representative to enable him or her to carry out his or her mandate in the best possible conditions;

9. Decides to continue its consideration of the human rights situation in Guatemala at its forty-seventh session under the agenda item entitled "Questions of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Belgium, Canada, Luxembourg*, Morocco, Netherlands*, Portugal, Sweden and United Kingdom of Great Britain and Northern Ireland: draft resolution

Situation of human rights in Albania

The Commission on Human Rights,

Recalling that the human rights situation in Albania has been under consideration by the Commission on Human Rights since 1984 under the confidential procedure governed by Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970,

*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Bearing in mind that, in its resolution 1988/17 of 2 March 1988, the Commission on Human Rights, acting under paragraph 8 of Council resolution 1503 (XLVIII), decided to discontinue consideration of the human rights situation in Albania under the confidential procedure and to take up consideration of the matter under the public procedure provided for in Council resolution 1235 (XLII) of 6 June 1967,

Bearing in mind also Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1988/15 of 1 September 1988,

Recalling its resolution 1989/69 of 8 March 1989,

Welcoming the fact that for the first time the Government of Albania responded to the Commission's Special Rapporteur on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (E/CN.4/1990/46, para. 26),

Considering however that the concerned Government has failed to respond to the specific allegations transmitted to it by the Commission's Special Rapporteur on the Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Concerned about the reports on the situation of human rights in Albania which, in spite of reflecting some positive developments, continue to reveal violations of human rights, especially freedom of thought, conscience and religion, the right to leave the country and the right to a fair trial with all guarantees necessary for the defence,

Noting the invitation by the Government of Albania to the Secretary-General to visit the country,

1. Calls upon the Government of Albania to provide information on the concrete manner in which constitutional and legal measures comply with the provisions of the Universal Declaration of Human Rights and to respond to the specific allegations transmitted to it by the Commission's Special Rapporteur on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief;

2. Requests the Secretary-General:

(a) To bring the present resolution to the attention of the Government of Albania and to invite it to provide the requested information;

(b) To take the present resolution into account when availing himself of the invitation by the Government of Albania to visit the country;

(c) To report to the Commission at its forty-seventh session on the results of his efforts under this resolution;

3. Decides to continue its consideration of the situation of human rights in Albania at its forty-seventh session.

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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Agenda item 14

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS

Australia*, Byelorussian Soviet Socialist Republic*, Costa Rica*, Gambia, Germany, Federal Republic of, Italy, Peru, Philippines, Spain, Togo*, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Zaire* and Zimbabwe*: draft resolution

Question of a draft body of principles and guarantees for the protection of mentally-ill persons and for the improvement of mental health care

The Commission on Human Rights,

Recalling its resolution 10 A (XXXIII) of 11 March 1977, by which it requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to study the question of the protection of persons detained on the grounds of mental ill-health, with a view to formulating guidelines,

Recalling also its resolution 1989/40 of 6 March 1989,

Taking note of Economic and Social Council resolution 1989/76 of 24 May 1989 by which the Council authorized an open-ended working group of the Commission to examine, revise and simplify as necessary the draft body of principles and guarantees submitted by the Sub-Commission with a view to submitting it to the Commission at its forty-sixth session,

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*/ In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Noting with appreciation the comments submitted to the Secretary-General on the draft body of principles and guarantees by Governments, specialized agencies, in particular the World Health Organization, and non-governmental organizations (E/CN.4/1990/53 and Add.1-4), and their participation in the open-ended Working Group,

Noting with satisfaction the progress made by the Working Group during its meeting prior to the forty-sixth session of the Commission,

Noting also the Working Group's view that there is a reasonable expectation that its task could be completed within an acceptable time-scale if it were authorized to meet for a further session of two weeks before the next session of the Commission and were then mandated to pursue its work in the same manner as before,

1. Takes note of the report of the Working Group on the Question of the Draft Body of Principles and Guarantees for the Protection of Mentally Ill Persons and for the Improvement of Mental Health care (E/CN.4/1990/31);

2. Decides to make available, prior to the forty-seventh session of the Commission, appropriate meeting time for the Working Group;

3. Invites the Working Group to pursue its work at that meeting in the same manner as before;

4. Recommends the following draft resolution to the Economic and Social Council for adoption:

"The Economic and Social Council,

"Recalling Commission on Human Rights resolution 1990/... of ... March 1990,

1. Authorizes an open-ended working group of the Commission on Human Rights to meet for a period of two weeks prior to the forty-seventh session of the Commission, with a view to continuing the examination, revision and simplification of a draft body of principles and guarantees for the protection of mentally-ill persons and for the improvement of mental health care, with a view to submitting it to the Commission on Human Rights at its forty-seventh session;

2. Requests the Secretary-General to extend all facilities to the Working Group for its meeting prior to the forty-seventh session of the Commission, and to prepare and transmit to the Working Group a working paper covering the articles that remain to be discussed and taking account of the comments and suggestions made by Governments, specialized agencies and non-governmental organizations."

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Forty-sixth session
Agenda item 11

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Austria*, Colombia, Ethiopia, India, Philippines and Union of Soviet Socialist Republics: draft resolution

Streamlining the system of preparation of reports and studies by the Secretary-General

The Commission on Human Rights,

Aware of the necessity to streamline the system of preparation of reports and studies by the Secretary-General, which give important possibilities for the international community to analyse existing problems in the field of human rights, and allow for exchange of experience in the promotion and protection of human rights,

Recalling Economic and Social Council resolution 1986/33 of 23 May 1986,

Requests the Secretary-General to prepare and dispatch to Governments, after each session of human rights bodies of the United Nations, a list containing operative paragraphs of all resolutions and decisions which require preparation of reports and studies, together with a tentative schedule of their preparation, and to send corresponding notes verbales as soon as possible as reminders of this list.

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Bangladesh, Bulgaria, Gambia, Peru and Portugal: draft resolution

Working Group on Situations

The Commission on Human Rights,

Recalling that, since 1974, the Commission has annually decided, with the approval of the Economic and Social Council, to set up a working group to assist it in the examination of the particular human rights situations referred to it under Council resolution 1503 (XLVIII) of 27 May 1970,

Observing that the contribution of the working group, referred to as the Working Group on Situations, has become a valuable feature in the implementation of the procedure governed by Council resolution 1503 (XLVIII),

Wishing to formalize the setting up of the Working Group on Situations on a regular basis,

Recommends the following draft resolution to the Economic and Social Council for adoption:

"The Economic and Social Council,

"Taking note of the wish of the Commission on Human Rights to establish a working group to assist it, on a regular basis, in the implementation of Council resolution 1503 (XLVIII) of 27 May 1970,

"Noting that, with the approval of the Council, such a working group has, in fact, been set up annually since 1974 on an ad hoc basis,

"Recognizing the valuable contribution of the working group, through the years, in the implementation of the procedure governed by Council resolution 1503 (XLVIII),

1. Authorizes the Commission on Human Rights to establish a working group consisting of not more than five of its members, with due regard to geographical distribution, to meet for a period not exceeding five working days prior to the sessions of the Commission to examine such particular situations as might be referred to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities under the procedure governed by Economic and Social Council resolution 1503 (XLVIII) and those situations of which the Commission is seized under that procedure, and to make recommendations to the Commission on the course of action to take in respect of each particular situation;

2. Decides that the working group, to be referred to as the Working Group on Situations, shall be constituted as follows:

(a) Before the end of each session, the Chairman of the Commission, in accordance with rule 21 of the rules of procedure of the functional commissions of the Economic and Social Council, and after consultations with the members of each geographical area, shall nominate the members to serve in their personal capacity on the working group at its next session;

(b) If necessary, the Chairman or the outgoing Chairman may at any time, in order to fill a vacancy, designate a member from among the names of all Commission members of the same geographical area;

3. Decides also that the Working Group on Situations shall hold closed meetings and communicate its recommendations confidentially to the Commission on Human Rights, pursuant to paragraph 8 of Council resolution 1503 (XLVIII)."

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HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS

Japan and Yugoslavia: draft resolution

Use of scientific and technological developments for the promotion and protection of human rights and fundamental freedoms

The Commission on Human Rights,

Recalling its resolutions 1983/41 of 9 March 1983, 1984/27 of 12 March 1984, 1986/9 of 10 March 1986 and, in particular, 1988/59 of 9 March 1988,

Convinced of the paramount importance of the application of science and technology to economic and social progress and to the promotion and enjoyment of human rights and fundamental freedoms,

Recognizing the need to extend the benefits of science and technological developments to the developing countries,

Recognizing that the effects of scientific and technological developments on human rights and fundamental freedoms have both beneficial and harmful aspects and therefore must be examined in their totality,

Expressing its conviction that it would be useful to undertake a study on the most effective ways and means of using the results of scientific and technological developments for the promotion and realization of human rights and fundamental freedoms,

Taking into account the Note by the Secretary-General (E/CN.4/1990/29) which informs that the completion of the study pursuant to Commission resolution 1988/59 has been delayed,

Invites the United Nations University, in co-operation with other interested academic research institutions to submit to the Commission on Human Rights at its forty-seventh session a final report of its study on the positive and negative impacts of scientific and technological developments on human rights and fundamental freedoms, in accordance with resolution 1988/59 of the Commission on Human Rights.